

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

ATEF MEKKI HAJ HASSEN, :
Plaintiff, : CIVIL ACTION NO. 3:17-CV-1756
v. : (JUDGE CONABOY)
:(Magistrate Judge Saporito)
:
CRAIG A. LOWE, as Warden of :
Pike County Correctional :
Facility, et al., :
:

FILED
SCRANTON

NOV 08 2017

ORDER

Per CTK
CLERK

AND NOW, THIS 8th DAY OF NOVEMBER 2017, IT

APPEARING TO THE COURT THAT:

1. Petitioner, a native and national of Tunisia who is in the custody of Respondents at the Pike County Correction Facility, Lords Valley, Pennsylvania, filed this counseled Petition for Writ of Habeas Corpus on September 27, 2015, pursuant to 28 U.S.C. § 2241 (Doc. 1);

2. The matter was assigned to United States Magistrate Judge Joseph F. Saporito, Jr., who issued a Report and Recommendation (Doc. 5) on November 7, 2017, recommending that the instant petition be dismissed (*id.* at 4);

3. No objections were filed to the Magistrate Judge's Report and Recommendation and the time for such filing has passed.

IT FURTHER APPEARING TO THE COURT THAT:

1. When a magistrate judge makes a finding or ruling on a motion or issue, his determination should become that of the court

unless objections are filed. See *Thomas v. Arn*, 474 U.S. 150-53 (1985). Moreover, when no objections are filed, the district court is required only to review the record for "clear error" prior to accepting a magistrate judge's recommendation. See *Cruz v. Chater*, 990 F. Supp. 375-78 (M.D. Pa. 1998); *Oldrati v. Apfel*, 33 F. Supp. 2d 397, 399 (E.D. Pa. 1998).

2. We find no clear error in the Magistrate Judge's conclusion that Petitioner seeks voluntary dismissal of this action with Petitioner's Motion to Dismiss Without Prejudice (Doc. 3) and, therefore, the motion should be treated as a Federal Rule of Civil Procedure 41(a)(1) notice of voluntary dismissal which is self-effectuating in the circumstances presented here. (Doc. 5 at 2-4 (citations omitted).)

ACCORDINGLY, IT IS HEREBY ORDERED THAT:

1. The Magistrate Judge's Report and Recommendation (Doc. 5) is **ADOPTED**;
2. The Petition for Writ of Habeas Corpus (Doc. 1) is **DISMISSED WITHOUT PREJUDICE**;
3. There is no basis for the issuance of a certificate of appealability in the Court of Appeals for the Third Circuit;
4. The Clerk of Court is directed to close this case.



RICHARD P. CONABOY
United States District Judge